

104TH CONGRESS
2D SESSION

S. 1957

To amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation.

IN THE SENATE OF THE UNITED STATES

JULY 16, 1996

Mr. PRESSLER (for himself, Mr. LOTT, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intermodal Safe Con-
5 tainer Transportation Amendments Act of 1996”.

6 **SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-
10 sion, the reference shall be considered to be made to a

1 section or other provision of title 49 of the United States
2 Code.

3 **SEC. 3. DEFINITIONS.**

4 Section 5901 (relating to definitions) is amended—

5 (1) by striking paragraph (1) and inserting the
6 following:

7 “(1) except as otherwise provided in this chap-
8 ter, the definitions in section 13102 of this title
9 apply.”;

10 (2) by redesignating paragraphs (6) and (7) as
11 paragraphs (7) and (8), respectively; and

12 (3) by inserting after paragraph (5) the follow-
13 ing:

14 “(6) ‘gross cargo weight’ means the weight of
15 the cargo, packaging materials (including ice), pal-
16 lets, and dunnage.”.

17 **SEC. 4. NOTIFICATION AND CERTIFICATION.**

18 (a) PRIOR NOTIFICATION.—Subsection (a) of section
19 5902 (relating to prior notification) is amended—

20 (1) by striking “Before a person tenders to a
21 first carrier for intermodal transportation a” and in-
22 serting “If the first carrier to which any”;

23 (2) by striking “10,000 pounds (including pack-
24 ing material and pallets), the person shall give the
25 carrier a written” and inserting “29,000 pounds is

1 tendered for intermodal transportation is a motor
 2 carrier, the person tendering the container or trailer
 3 shall give the motor carrier a”;

4 (3) by striking “trailer.” and inserting “trailer
 5 before the tendering of the container or trailer.”;

6 (4) by striking “electronically.” and inserting
 7 “electronically or by telephone.”; and

8 (5) by adding at the end thereof the following:
 9 “This subsection applies to any person within the
 10 United States who tenders a container or trailer
 11 subject to this chapter for intermodal transportation
 12 if the first carrier is a motor carrier.”.

13 (b) CERTIFICATION.—Subsection (b) of section 5902
 14 (relating to certification) is amended to read as follows:

15 “(b) CERTIFICATION.—

16 “(1) IN GENERAL.—A person who tenders a
 17 loaded container or trailer with an actual gross
 18 cargo weight of more than 29,000 pounds to a first
 19 carrier for intermodal transportation shall provide a
 20 certification of the contents of the container or trail-
 21 er in writing, or electronically, before or when the
 22 container or trailer is so tendered.

23 “(2) CONTENTS OF CERTIFICATION.—The cer-
 24 tification required by paragraph (1) shall include—

25 “(A) the actual gross cargo weight;

1 “(B) a reasonable description of the con-
 2 tents of the container or trailer;

3 “(C) the identity of the certifying party;

4 “(D) the container or trailer number; and

5 “(E) the date of certification or transfer of
 6 data to another document, as provided for in
 7 paragraph (3).

8 “(3) TRANSFER OF CERTIFICATION DATA.—A
 9 carrier who receives a certification may transfer the
 10 information contained in the certification to another
 11 document or to electronic format for forwarding to
 12 a subsequent carrier. The person transferring the in-
 13 formation shall state on the forwarded document the
 14 date on which the data was transferred and the
 15 identity of the party who performed the transfer.

16 “(4) SHIPPING DOCUMENTS.—For purposes of
 17 this chapter, a shipping document, prepared by the
 18 person who tenders a container or trailer to a first
 19 carrier, that contains the information required by
 20 paragraph (2) meets the requirements of paragraph
 21 (1).

22 “(5) USE OF ‘FREIGHT ALL KINDS’ TERM.—
 23 The term ‘Freight All Kinds’ or ‘FAK’ may not be
 24 used for the purpose of certification under section
 25 5902(b) after December 31, 2000, as a commodity

1 description for a trailer or container if the weight of
2 any commodity in the trailer or container equals or
3 exceeds 20 percent of the total weight of the con-
4 tents of the trailer or container. This subsection
5 does not prohibit the use of the term after that date
6 for rating purposes.

7 “(6) SEPARATE DOCUMENT MARKING.—If a
8 separate document is used to meet the requirements
9 of paragraph (1), it shall be conspicuously marked
10 ‘INTERMODAL CERTIFICATION’.

11 “(7) APPLICABILITY.—This subsection applies
12 to any person, domestic or foreign, who first tenders
13 a container or trailer subject to this chapter for
14 intermodal transportation within the United
15 States.”.

16 (c) FORWARDING CERTIFICATIONS.—Subsection (c)
17 of section 5902 (relating to forwarding certifications to
18 subsequent carriers) is amended—

19 (1) by striking “transportation.” and inserting
20 “transportation before or when the loaded inter-
21 modal container or trailer is tendered to the subse-
22 quent carrier. If no certification is received by the
23 subsequent carrier before or when the container or
24 trailer is tendered to it, the subsequent carrier may
25 presume that no certification is required.”; and

1 (2) by adding at the end thereof the following:

2 “If a person inaccurately transfers the information
 3 on the certification, or fails to forward the certifi-
 4 cation to a subsequent carrier, then that person is
 5 liable to any person who incurs any bond, fine, pen-
 6 alty, cost (including storage), or interest for any
 7 such fine, penalty, cost (including storage), or inter-
 8 est incurred as a result of the inaccurate transfer of
 9 information or failure to forward the certification. A
 10 subsequent carrier who incurs a bond, fine, penalty,
 11 or cost (including storage), or interest as a result of
 12 the inaccurate transfer of the information, or the
 13 failure to forward the certification, shall have a lien
 14 against the contents of the container or trailer under
 15 section 5905 in the amount of the bond, fine, pen-
 16 alty, or cost (including storage), or interest and all
 17 court costs and legal fees incurred by the carrier as
 18 a result of such inaccurate transfer or failure.”.

19 (d) LIABILITY.—Section 5902 is amended by redesign-
 20 nating subsection (d) as subsection (e), and by inserting
 21 after subsection (c) the following:

22 “(d) LIABILITY TO OWNER OR BENEFICIAL
 23 OWNER.—If—

24 “(1) a person inaccurately transfers informa-
 25 tion on a certification required by subsection (b)(1),

1 or fails to forward a certification to the subsequent
 2 carrier;

3 “(2) as a result of the inaccurate transfer of
 4 such information or a failure to forward a certifi-
 5 cation, the subsequent carrier incurs a bond, fine,
 6 penalty, or cost (including storage), or interest; and

7 “(3) that subsequent carrier exercises its rights
 8 to a lien under section 5905,

9 then that person is liable to the owner or beneficial owner,
 10 or to any other person paying the amount of the lien to
 11 the subsequent carrier, for the amount of the lien and all
 12 costs related to the imposition of the lien, including court
 13 costs and legal fees incurred in connection with it.

14 (e) NONAPPLICATION.—Subsection (e) of section
 15 5902, as redesignated, is amended—

16 (1) by redesignating paragraphs (1) and (2) as
 17 paragraphs (2) and (3), respectively; and

18 (2) by inserting before paragraph (2), as redes-
 19 ignated, the following:

20 “(1) The notification and certification require-
 21 ments of subsections (a) and (b) of this section do
 22 not apply to any intermodal container or trailer con-
 23 taining consolidated shipments loaded by a motor
 24 carrier if that motor carrier—

1 “(A) performs the highway portion of the
 2 intermodal movement; or
 3 “(B) assumes the responsibility for any
 4 weight-related fine or penalty incurred by any
 5 other motor carrier that performs a part of the
 6 highway transportation.”.

7 **SEC. 5. PROHIBITIONS.**

8 Section 5903 (relating to prohibitions) is amended—
 9 (1) by inserting after “person” a comma and
 10 the following: “to whom section 5902(b) applies,”;
 11 (2) by striking subsection (b) and inserting the
 12 following:

13 “(b) TRANSPORTING PRIOR TO RECEIVING CERTIFI-
 14 CATION.—

15 “(1) PRESUMPTION.—If no certification is received
 16 by a motor carrier before or when a loaded intermodal con-
 17 tainer or trailer is tendered to it, the motor carrier may
 18 presume that the gross cargo weight of the container or
 19 trailer is less than 29,001 pounds.

20 “(2) COPY OF CERTIFICATION NOT REQUIRED TO AC-
 21 COMPANY CONTAINER OR TRAILER.—Notwithstanding any
 22 other provision of this chapter to the contrary, a copy of
 23 the certification required by section 5902(b) is not re-
 24 quired to accompany the intermodal container or trailer.”;
 25 and

1 (3) by striking “10,000 pounds (including pack-
 2 ing materials and pallets)” in subsection (c)(1) and
 3 inserting “29,000 pound”.

4 **SEC. 6. LIENS.**

5 Section 5905 (relating to liens) is amended—

6 (1) by striking subsection (a) and inserting the fol-
 7 lowing:

8 (a) GENERAL.—If a person involved in the inter-
 9 modal transportation of a loaded container or trailer for
 10 which a certification is required by section 5902(b) of this
 11 title is required, because of a violation of a State’s gross
 12 vehicle weight laws or regulations, to post a bond or pay
 13 a fine, penalty, cost (including storage), or interest result-
 14 ing from—

15 “(1) erroneous information provided by the cer-
 16 tifying party in the certification to the first carrier
 17 in violation of section 5903(a) of this title;

18 “(2) the failure of the party required to provide
 19 the certification to the first carrier to provide it;

20 “(3) the failure of a person required under sec-
 21 tion 5902(c) to forward the certification to forward
 22 it; or

23 “(4) an error occurring in the transfer of infor-
 24 mation on the certification to another document
 25 under section 5902(b)(3) or (c),

1 then the person posting the bond, or paying the fine, pen-
 2 alty, costs (including storage), or interest has a lien
 3 against the contents equal to the amount of the bond, fine,
 4 penalty, cost (including storage), or interest incurred,
 5 until the person receives a payment of that amount from
 6 the owner or beneficial owner of the contents, or from the
 7 person responsible for making or forwarding the certifi-
 8 cation, or transferring the information from the certifi-
 9 cation to another document.”;

10 (2) by inserting a comma and “or the owner or
 11 beneficial owner of the contents,” after “first car-
 12 rier” in subsection (b)(1); and

13 (3) by striking “cost, or interest.” in subsection
 14 (b)(1) and inserting “cost (including storage), or in-
 15 terest. The lien shall remain in effect until the lien
 16 holder has received payment for all costs and ex-
 17 penses described in subsection (a) of this section.”.

18 **SEC. 7. PERISHABLE AGRICULTURAL COMMODITIES.**

19 Section 5906 (relating to perishable agricultural com-
 20 modities) is amended by striking “Sections 5904(a)(2)
 21 and 5905 of this title do” and inserting “Section 5905
 22 of this title does”.

23 **SEC. 8. REGULATIONS; EFFECTIVE DATE.**

24 (a) REGULATIONS.—Section 5907(a) (relating to reg-
 25 ulations) is amended by striking the first sentence and in-

1 setting the following: “Not later than 30 days after the
 2 date of enactment of the Intermodal Safe Container
 3 Transportation Amendments Act of 1996, the Secretary
 4 of Transportation shall initiate a proceeding to consider
 5 adoption or modification of regulations under this chapter
 6 to reflect the amendments made by that Act. The Sec-
 7 retary shall prescribe final regulations, if such regulations
 8 are needed, within 90 days after such date of enactment.”.

9 (b) EFFECTIVE DATE.—Section 5907(b) (relating to
 10 effective date) is amended to read as follows:

11 “(b) EFFECTIVE DATE.—This chapter is effective on
 12 the date of enactment of the Intermodal Safe Container
 13 Transportation Amendments Act of 1996. The Secretary
 14 shall implement the provisions of this chapter 180 days
 15 after such date of enactment.”.

16 **SEC. 9. RELATIONSHIP TO OTHER LAWS.**

17 (a) IN GENERAL.—Chapter 59 is amended by adding
 18 at the end thereof the following:

19 **“§ 5908. Relationship to other laws**

20 “Nothing in this chapter affects—

21 “(1) chapter 51 (relating to transportation of
 22 hazardous material) or the regulations promulgated
 23 under that chapter; or

1 “(2) any State highway weight or size law or
2 regulation applicable to tractor-trailer combina-
3 tions.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such chapter is amended by adding at the end thereof
6 the following:

“5908. Relationship to other laws”

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